IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

Crl.Rev.Pet.No. 577 of 1999()

CRA.118/1997 of IST ADDL. SESSIONS COURT, THRISSUR
CC.117/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR
.....

REVN. PETITIONER: APPELLANT/ ACCUSED NO.281

SARMA, S/O.NADESAN, MANKATTIL,
PODIYAN BAZAR,
EDAVILANGU VILLAGE,
KODUNGALLUR TALUK.

BY ADV. SRI.P.R.SHAJI

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 23/07/2007, ALONG WITH CRRP NO. 581 OF 1999 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.577/1999

ORDER ON CRL.MP . NO. 2606/1999 IN CRL.RP. NO.577/1999

DISMISSED

23.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P. Nos.577 & 581 of 1999

Dated this the 23rd day of July, 2007

ORDER

The revision petitioner in Crl.R.P. 577/99 is the 2nd accused and the revision petitioner in Crl.R.P.No.581/99 is the Ist accused in C.C.No.117/95 who stand convicted for the offences under sections 341, 323, 324 read with 34 IPC and sentenced to undergo simple imprisonment for one month for the offence under section 341 IPC and to undergo simple imprisonment for 3 months for the offence under sections 324 IPC.

2. The prosecution case is that the accused with the intention to attack PW-1, at 3 p.m in the road situated on the eastern side of the building No.2/602 of Methala Panchayat confronted PW-1 and A1 caught hold of PW-1 and A2 inflicted cut injuries on the right hand and knee with a sword.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 to 8 and Exts.P1 to P4. PW1 is the injured. PWs 2 to 4 are the occurrence witnesses. PW-5 is the doctor who proved Ext.P2 wound certificate. PW6 is the witness to the

scene mahazar and PW-7 is the Head Constable who recorded the FIR and registered the crime. PW-8 is the S.I who investigated the case. It is the contention of PWs 1 to 3 that the incident has taken place while all the three were proceeding through the road from east to the western direction and at the time an autorickshaw was stopped and A1 got down and caught hold of PW-1 and A2 inflicted a blow with a sword. On receiving the injury, PW-1 ran to escape but tripped and fell and A2 followed him and inflicted another cut injury. It is stated that the victim and the assailants belonged to two rival political parties and that the attack was a sequal to a dispute with respect to the loading work. PW-4 is another occurrence witness to the scene of the incident.

4. It is seen that immediately after the incident, PW-1 was taken to the hospital. Ext.P2 is the wound certificate recorded at 3.40 p.m. Ext.P1 FIS has been recorded by PW-7 Head Constable at 5.15 p.m.

5. Counsel for the revision petitioner has pointed out that there are a number of contradictions in the evidence of the witnesses. But I find that no contradictions or discrepancies

with the previous statements have been proved by PW-8, the investigating officer. It is also noted that the witnesses have been examined after more than 1 ½ years and hence, certain discrepancies are probable in recollecting and recounting the incident. The contention raised, I find, has been considered in detail by the appellate court, i.e., in Ext.P3 scene mahazar, the scene of occurrence mentioned is specifically the garden land as not the road which is the place of incident as per FIS. I find that when PW-7 Head Constable who recorded the scene mahazar was examined, but he was not questioned about the above aspect. As already noted, the appellate court has considered the above contention and has found that the incident has started from the road and that PW-1 fell down in the adjacent compound and hence there is no serious discrepancy in this regard. I find that both the courts below have meticulously considered the evidence adduced and hence there is nothing to interfere therein in exercise of the revisional jurisdiction. The convictions are confirmed.

6. Counsel for the revision petitioner has pleaded for modification of the sentence pointing out that so many years

have elapsed since the incident occurred. The date of the incident is 7-1-95. In the circumstances, the sentence imposed for the offence under section 324 is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- by each of the accused /revision petitioners to PW-1 and in default to undergo simple imprisonment for 3 months each. Three months' time is granted to remit the compensation amount. No separate sentence is awarded for the offence under section 341 IPC. The revision petitioners shall appear before the JFCM- I, Kodungallur on 29-10-2007 to receive the sentence.

The Crl.R.Ps are disposed of accordingly.

K.R.UDAYABHANU,JUDGE.

Kvm/

K.R.UDAYABHANU, J.

CRL.R.P.NOS. 577 & 581 OF 1999

ORDER

23-7-2007.